

## **MINUTES**

### **NEW YORK STATE RACING AND WAGERING BOARD**

#### **MEETING OF DECEMBER 23, 2003**

A meeting of the New York State Racing and Wagering Board was held on Tuesday, December 23, 2003 at 10:30 a.m. at the Racing & Wagering Board's Albany Office located at 1 Watervliet Avenue Extension, Albany, New York.

The meeting was called to order at 10:35 a.m.

#### **In Attendance Were:**

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Edward Martin, Executive Director

Sheila Osterhout, Secretary to the Board

Robert Feuerstein, General Counsel

Thomas Casaregola, Director of Audits & Investigations

Joseph Lynch, Chief of Racing Operations

#### **Also in Attendance Were:**

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Francesca Pizzimenti, NYSR&WB

David E. Wilson, Vernon Downs

Paul D'Onofrio, Monticello

Dick Powell, Capital OTB/Fairgrounds

Robert Hemsworth, Capital OTB

Charles Coppola, Coppola, Ryan, McHugh

Bill Crowell, Hinman Straub

Giorgio DeRosa, Bolton-St. Johns

Martin Gersten, Vernon Downs

**OPEN COMMENT PERIOD: None.**

**A.** The Board approved the minutes of the Board meeting held on December 3, 2003.

**B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.**

**1. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on December 3, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack known as Beulah Park located in Grove City, Ohio during its upcoming 2004 annual race meeting.

Also approved was the amendment to the simulcast plan of operation enabling a new export to Sun Ray Park in New Mexico.

\* For entry into the minutes, on December 10, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Northville Downs in Michigan during the initial year 2004 race meeting that begins on January 3<sup>rd</sup> and continues through April 3, 2004.

\* For entry into the minutes, on December 11, 2003, approval was granted for the request by Monticello Raceway for the addition of the Chickasaw-Wildfire OTB in Davis, Oklahoma as an addendum to the Choctaw Racing Services, LLC of Durant, Oklahoma agreement.

\* For entry into the minutes, on December 17, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from The Meadows in Pennsylvania during its 2004 race meeting.

Also approved is the export of the Monticello Raceway 2004 harness simulcast to Pocono Downs, a harness racetrack located in Pennsylvania, a contiguous state.

**2. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on December 3, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from the Fair Grounds in New Orleans, Louisiana during its year 2003-2004 Fair Grounds racing season.

\* For entry into the minutes, on December 10, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from Tampa Bay Downs, a thoroughbred racetrack in Florida. This approval is effective immediately.

### **3. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on December 3, 2003, approval was granted for the request by Nassau Regional OTB, dated November 26, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Delta Downs Racetrack in Louisiana.

All simulcasts may be utilized by Nassau OTB whenever in compliance with the Racing Law. This approval further extends to Capital, Catskill, Suffolk and Western OTB.

\* For entry into the minutes, on December 10, 2003, approval was granted for the request by Nassau Regional OTB, dated December 5, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Tampa Bay Downs in Florida, through May 2, 2004.

This approval also applies to Suffolk Regional OTB. These simulcasts may be imported and utilized whenever in accordance with the Racing Law.

### **4. SARATOGA HARNESS REQUEST TO OFFER CHRISTMAS PROMOTION**

For entry into the minutes, on December 10, 2003, approval was granted for the request by Saratoga Harness, dated December 2, 2003, to conduct a Christmas Season promotion per the submitted rules.

Winners will receive cash prizes by random drawing after each live Saratoga Harness race meeting on Friday, December 19<sup>th</sup>.

### **5. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on December 10, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack known as Tampa Bay Downs in Florida.

This simulcast may be utilized whenever in compliance with the Racing Law.

### **6. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on December 10, 2003, approval was granted for the request by Yonkers Raceway, dated November 26, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Sam Houston Park in Texas during the remainder of its 2003 Fall race meeting.

Also approved is the new contract to export the Yonkers Raceway simulcast to Sam Houston Park.

### **7. NEW YORK CITY OTB REQUEST TO AMEND PLAN OF OPERATION**

For entry into the minutes, on December 17, 2003, approval was granted for the request by New York City OTB for an amendment to its plan of operation

enabling the continued operation of ATM□s at various New York City OTB branches per the submitted agreement executed on December 10, 2003.

### **C. ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE BOARD**

#### **1. SARATOGA HARNESS REQUEST FOR APPROVAL OF VLT RELATED DEMOLITION/CONSTRUCTION**

For entry into the minutes, on December 4, 2003, the Board approved the request by Saratoga Harness, dated November 25, 2003, pursuant to Section 322 of the NYS Racing, Pari-Mutuel Wagering and Breeding Law for limited construction related to the proposed Video Lottery Terminal facilities.

The construction approved is limited to the installation of the video lottery terminals as described in the letter submitted by Saratoga Harness and the construction permit dated November 25, 2003 submitted by the NYS Office of General Services.

#### **2. NY JOCKEY INJURY COMPENSATION FUND ASSESSMENT FORMULA FOR 2004**

For entry into the minutes, on December 8, 2003, the Board approved the request for an amendment to the plan of operation of the New York Jockey Injury Compensation Fund, Inc. enabling the method of funding and assessment plan for 2004 as outlined in the submitted application.

The Board also approved an amendment to the plan of operation to reflect the change in bylaws, Section 2 of Article VII.

#### **3. NYRA REQUEST FOR NEW BOARD OF TRUSTEE MEMBER - MELNYK**

For entry into the minutes, on December 8, 2003, the Board approved the election of Eugene Melnyk to the NYRA Board of Trustees. Mr. Melnyk is currently the Chairman and Chief Executive Officer of Biovail Corporation.

### **D. ITEMS TO BE APPROVED, DENIED OR DEFERRED BY THE BOARD**

#### **1. IN THE MATTER OF ARTIE BOLDEN**

The Board approved Hearing Officer Baller□s recommendation that the license refusal of Artie Bolden to participate in pari-mutuel harness racing, be upheld. The refusal was based upon the finding that Mr. Bolden□s experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing generally.

#### **2. IN THE MATTER OF DAVID V. MILLER**

The Board approved Hearing Officer Baller's recommendation that the license refusal of David V. Miller to participate in pari-mutuel harness racing, be upheld. The refusal was based upon the finding, at staff level, that Mr. Miller's experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing generally.

### **3. IN THE MATTER OF ALBERT ROSSI**

Harness general services license applicant Albert Rossi appealed from the July 31, 2003 refusal to issue a license to participate in pari-mutuel harness racing. The refusal was based upon the finding that Mr. Rossi's experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing generally.

The Board remanded the matter to the Hearing Officer for clarification of the status of the reported conviction of Albert Rossi, specifically as to the assertion of Albert Rossi that the reported conviction was expunged. The Board further directed the Hearing Officer to determine the authenticity of a letter submitted by an attorney on behalf of the applicant.

### **4. WESTERN OTB/BATAVIA DOWNS TRACK LICENSE APPLICATION FOR 2004**

The Board approved the Western OTB/Batavia Downs track and simulcast license applications for 2004. The Board assigned the 72 programs requested on the specified dates.

The 2004 track and simulcast licenses are conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and regulations, and the requirements set forth in the track and simulcast license applications.

### **5. WESTERN OTB/BATAVIA DOWNS SIMULCAST LICENSE APPLICATION FOR 2004**

See Board item number four (4) above.

### **6. WESTERN OTB SIMULCAST LICENSE APPLICATION FOR 2004**

The Board approved the Western Regional OTB application for a 2004 simulcast license. The license applies to 39 simulcast branches and one teletheater as set forth in the application.

The 2004 simulcast license is conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and regulations, and the requirements set forth in the simulcast license application.

### **7. BUFFALO RACEWAY REQUEST TO WITHDRAW FROM CIF - \$23,704.71**

The Board approved Buffalo Raceway's request to withdraw \$23,704.71 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures.

**Other (100%)**

Spray Foam Insulation over Concrete Ceiling \$ 11,000.00

Frame/Insulate/Drywall 6" Stud Wall 6,300.00

Pair of Gauge Steel Doors/Glass Kitsw/ Insulated Lites 4,530.00

Lumber 449.70

Paint 580.69

Electrical 767.42

Drywall 76.90

Total Approved \$ 23,704.71

**8. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$12,997.84**

The Board approved Buffalo Raceway's request to withdraw \$23,704.71 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures.

**Backstretch (100%)**

Harrow/ Float-20" \$ 1,298.80

Tires, Wheels & Hubs 9,725.25

Tongue for Harrow/Float-20" 1,973.79

Total Backstretch \$12,997.84

Total Approved \$12,997.84

**9. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$175,270.29**

The Board approved Finger Lakes Race Track's request to withdraw a total of \$175,270.29 from its Capital Improvement Fund for reimbursement of 2003 Capital Improvement Expenditures.

**Other (38%)**

TV Cables \$ 456.24  
TV Brackets 1,994.85  
27 inch TV Monitors 7,191.11  
Plumbers Truck with Bucket 4,212.83  
Rebuild Loader Engine 8,502.37  
Stripe Main Parking Lot & seal \$ 44,275.48  
Total Other \$ 66,632.88

**Backstretch (62%)**

Reroof Barns 12A & 15 \$ 80,000.00  
Prep and Paint Barns 10,593.00  
Starting Gate Truck 17,467.75  
Starting Gate Truck- Metal Tool Box 203.71  
Starting Gate Truck-Tires 372.95  
Total Backstretch \$108,637.41  
Total Approved \$175,270.29

**10. MONTICELLO RACEWAY TRACK LICENSE APPLICATION FOR 2004**

The Board deferred action on the Monticello Raceway track and simulcast license applications for 2004. The Board assigned only the racing programs requested for the month of January 2004.

The Board will consider further action at the January Board meeting.

**11. MONTICELLO RACEWAY SIMULCAST LICENSE APPLICATION FOR 2004**

See Board item number ten (10) above.

**12. NYRA REQUEST FOR RACING OFFICIALS FOR 2004**

Pursuant to Board Rule 4005.1, the Board approved the request by NYRA for all officials and employees listed as belonging in Categories I, II or III to perform duties at the New York Racing Association's tracks during the year 2004 racing season.

### **13. SARATOGA HARNESS TRACK LICENSE APPLICATION FOR 2004**

The Board deferred action on the Saratoga Harness track and simulcast license applications for 2004. The Board assigned only the racing programs requested for the month of January 2004.

The Board will consider further action at the January Board meeting.

### **14. SARATOGA HARNESS SIMULCAST LICENSE APPLICATION FOR 2004**

See Board item number thirteen (13) above.

### **15. YONKERS RACEWAY TRACK LICENSE APPLICATION FOR 2004**

The Board deferred action on the Yonkers Raceway track and simulcast license applications for 2004. The Board assigned the racing programs requested for the month of January 2004 conditioned upon the filing of the renewal of the required pari-mutuel bond no later than December 31, 2003.

The Board will consider further action at the January Board meeting.

### **16. YONKERS RACEWAY SIMULCAST LICENSE APPLICATION FOR 2004**

See Board item number fifteen (15) above.

### **17. CAPITAL OTB SIMULCAST LICENSE APPLICATION FOR 2004**

The Board approved the 2004 simulcast license application of Capital District Regional OTB. This license includes forty-five (45) simulcast branches and one (1) teletheater facility as set forth in the application.

The license also includes 27 of the 28 E-Z Bet branches listed. The Board denied the license requested for an E-Z Bet branch located at Andy's Place upon a finding that such licensing would be inconsistent with public interest, convenience, or necessity or with the best interests of racing generally.

The 2004 simulcast license is conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and regulations, and the requirements set forth in the simulcast license application.

### **18. NASSAU OTB SIMULCAST LICENSE APPLICATION FOR 2004**

The Board approved the 2004 simulcast license application of Nassau Regional OTB. This license includes thirteen (13) simulcast branches and one (1) restaurant facility as set forth in the application.

The 2004 simulcast license is conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules

and regulations, and the requirements set forth in the simulcast license application.

#### **19. NEW YORK CITY OTB SIMULCAST LICENSE APPLICATION FOR 2004**

The Board approved the 2004 simulcast license application of New York City OTB. This license includes sixty-five (65) simulcast branches, ten (10) branches within operating restaurants and three (3) teletheater facilities as set forth in the application.

The 2004 simulcast license is conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and regulations, and the requirements set forth in the simulcast license application.

#### **20. SUFFOLK OTB SIMULCAST LICENSE APPLICATION FOR 2004**

The Board approved the 2004 simulcast license application of Suffolk Regional OTB. This license includes fourteen (14) simulcast branches and one (1) teletheater facility as set forth in the application.

The 2004 simulcast license is conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and regulations, and the requirements set forth in the simulcast license application.

### **E. ITEMS FOR BOARD INFORMATION/DISCUSSION**

#### **1. INDIAN GAMING - LICENSING STATISTICS FOR NOVEMBER 2003**

12/03-02-E

**Licensing statistics for November 1, 2003 through November 30, 2003. Also included are the certifications for Turning Stone, Akwesasne and Seneca Niagara.**

#### **2. LICENSING CURRENT RACING LICENSING COUNT AS OF DECEMBER 2003 -**

11/03-04-E

**The current racing licensing counts as of December 9, 2003 are as follows: total receipts 13,129 and total licenses 11,364.**

#### **3. STATE REGISTER PUBLICATION EMERGENCY RULE & PROPOSED RULES FOR ERYTHROPOIETIN, DARBEPOIETIN, RESERPINE AND FLUPHENAZINE 10/03-18-E**

**These amendments became effective on November 1, 2003 and will be in effect for a period of ninety (90) days through January 29, 2004. The rule was published in the *NYS Register* on November 19, 2003.**

**4. STATE REGISTER RULE PUBLICATION □ THOROUGHBRED TRIFECTA RULE □  
4011.22 □ 08/03-30-E**

**The amendment to Rule 4011.22(i) became effective on October 30, 2003 upon filing with the Department of State. It will be effective for ninety (90) days through January 27, 2004. The rule was published in the *NYS Register* on November 19, 2003.**

**The meeting was adjourned at 12:17 p.m.**